

EXHIBIT 1

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10 *Lead Counsel for Lead Plaintiff Carl*
11 *Schwartz and the Proposed Settlement Class*

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 TODD SCHUENEMAN, on behalf of
15 himself and all others similarly
16 situated,

17 Plaintiff,

18 v.

19 ARENA PHARMACEUTICALS,
20 INC., JACK LIEF, ROBERT E.
21 HOFFMAN, DOMINIC P. BEHAN,
22 WILLIAM R. SHANAHAN, and
23 CHRISTY ANDERSON,

24 Defendants.

Case No. 3:10-cv-01959-CAB (BLM)

**DECLARATION OF
LAYN R. PHILLIPS IN SUPPORT
OF SETTLEMENT**

23 [Additional Captions on Following Pages]
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1 WILLIAM SUTLIFF and JEAN
2 SUTLIFF, on behalf of themselves and
3 all others similarly situated,

4 Plaintiffs,

5 v.

6 ARENA PHARMACEUTICALS,
7 INC., JACK LIEF and WILLIAM
8 SHANAHAN, JR.,

9 Defendants.

Case No. 3:10-cv-01961-CAB (BLM)

10 WILLIAM PRATT, individually and
11 on behalf of all others similarly
12 situated,

13 Plaintiff,

14 v.

15 ARENA PHARMACEUTICALS,
16 INC., JACK LIEF, ROBERT E.
17 HOFFMAN, DOMINIC P. BEHAN,
18 WILLIAM R. SHANAHAN, JR. and
19 CHRISTY ANDERSON,

20 Defendants.

Case No. 3:10-cv-01977-CAB (BLM)

21 CRAIG RUBENSTEIN, individually
22 and on behalf of all others similarly
23 situated,

24 Plaintiff,

25 v.

26 ARENA PHARMACEUTICALS,
27 INC., JACK LIEF, ROBERT E.
28 HOFFMAN, DOMINIC P. BEHAN,
WILLIAM R. SHANAHAN, JR. and
CHRISTY ANDERSON,

Defendants.

Case No. 3:10-cv-01984-CAB (BLM)

[Additional Captions on Following Page]

1 RODNEY VELASQUEZ, on behalf of
2 himself and all others similarly situated,

3 Plaintiff,

4 v.

5 ARENA PHARMACEUTICALS, INC.,
6 JACK LIEF, ROBERT E. HOFFMAN,
7 DOMINIC P. BEHAN, WILLIAM R.
SHANAHAN, JR. and CHRISTY
ANDERSON,

8 Defendants.

Case No. 3:10-cv-02026-CAB (BLM)

9 THONG VU, individually and on behalf
10 of all others similarly situated,

11 Plaintiff,

12 v.

13 ARENA PHARMACEUTICALS, INC.,
14 JACK LIEF, ROBERT E. HOFFMAN,
15 DOMINIC P. BEHAN, WILLIAM R.
SHANAHAN, and CHRISTY
ANDERSON,

16 Defendants.

Case No. 3:10-cv-02086-CAB (BLM)

17 ARIC D. JACOBSON, individually and
18 on behalf of all others similarly situated,

19 Plaintiff,

20 v.

21 ARENA PHARMACEUTICALS, INC.,
22 JACK LIEF, ROBERT E. HOFFMAN,
23 DOMINIC P. BEHAN, WILLIAM R.
SHANAHAN, JR. and CHRISTY
ANDERSON,

24 Defendants.

Case No. 3:10-cv-02355-CAB (BLM)

1 I, Layn R. Phillips, pursuant to 28 U.S.C. § 1746, declare as follows:

2 1. I was selected by the parties to mediate the above-captioned action (the
3 “Action”) and did so as an independent mediator. The formal mediation process,
4 followed by continued negotiations with my assistance, ultimately resulted in the
5 Settlement now before the Court for final approval.

6 2. While the mediation process is confidential, the parties have
7 authorized me to inform the Court of the procedural and substantive matters set
8 forth herein in support of final approval of the Settlement.

9 3. My statements and those of the parties during the mediation process
10 are subject to a confidentiality agreement and Federal Rule of Evidence 408, and
11 there is no intention on either my part or the parties’ part to waive the agreement or
12 the protections of Rule 408. I make this Declaration based on personal knowledge
13 and am competent to so testify.

14 4. I am a former United States Attorney and former United States District
15 Judge. I also sat by designation on the United States Court of Appeals for the
16 Tenth Circuit in Denver, Colorado. I resigned from the federal bench in 1991.
17 From 1991 until 2014, I was a partner in the Newport Beach office of Irell &
18 Manella LLP, where my practice consisted of complex civil litigation, internal
19 investigations and alternative dispute resolution. I am now the founder and lead
20 mediator at Phillips ADR Enterprises, P.C., formed in November 2014.

21 5. For over 20 years, I have successfully mediated high-stakes civil
22 disputes for Fortune 500 companies nationwide. I have also mediated hundreds of
23 disputes referred by private parties and courts, and have been appointed a Special
24 Master by various federal courts in complex civil proceedings. I have also served
25 as a Fellow in the American College of Trial Lawyers. In addition, I have been
26 nationally recognized as a mediator by the Center for Public Resources Institute for
27 Dispute Resolution (CPR), serving on CPR’s National Panel of Distinguished
28 Neutrals.

1 6. Prior to the initial mediation, the parties provided to me, and
2 exchanged amongst themselves, briefs discussing certain aspects of the factual and
3 procedural background of the Action, as well as certain of the key disputed factual
4 and legal issues in the Action, along with substantial factual and expert support.

5 7. It was apparent to me from the submissions and presentations made by
6 the parties before and during the mediation process that counsel for all parties had
7 performed a thorough examination of the facts underlying the Action and, with the
8 aid of experts, analyzed it to determine appropriate case valuations. Counsel for all
9 parties were well informed on the current law and provided legal research and
10 analysis of the relevant law. It was also apparent to me that considerable work was
11 done by counsel for all parties to prepare the case for mediation.

12 8. On August 1, 2017, the parties participated in an all-day formal
13 mediation session before me in Newport Beach, California. In attendance at the
14 mediation were attorneys from Kaplan Fox & Kilsheimer LLP, counsel for the Lead
15 Plaintiff, attorneys from Cooley LLP, counsel for Arena Pharmaceuticals, Inc.
16 (“Arena”) and the individual defendants, and Arena’s general counsel. While the
17 mediation was productive, and progress was made, a settlement was not reached at
18 the conclusion of this session.

19 9. Following the formal mediation session on August 1, 2017, the parties,
20 with my assistance, continued to negotiate a resolution of the Action during August
21 through October 2017.

22 10. After presiding over the mediation process in this case, I am able to
23 report that the parties’ settlement is the product of vigorous and independent
24 advocacy and arm’s-length negotiation conducted in good faith. There was no
25 collusion between the parties.

26 11. Throughout the mediation process, I developed a complete
27 understanding of the full range of the dispute, the respective positions of the parties,
28

1 and the relative strengths and weaknesses of those positions, as well as the risks,
2 rewards and costs of continued litigation and inevitable appeal.

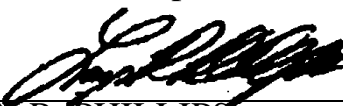
3 12. Based on my knowledge of the issues in dispute, my review of the
4 substantial factual and legal materials presented before and during the mediation,
5 the rigor of the parties' negotiations, the relative strengths and weaknesses of the
6 parties' positions, and the benefits achieved by the Settlement, I believe the
7 \$24,000,000 Settlement (\$12,025,000 in cash and \$11,975,000 in Arena common
8 stock ("Settlement Shares"¹)) represents a well-reasoned and sound resolution of
9 the highly uncertain litigation and that the result is fair, adequate, reasonable and in
10 the best interests of the Settlement Class. Therefore, I respectfully endorse the final
11 approval of the Settlement by the Court.

12 13. Furthermore, it is apparent from the submissions and presentations
13 made by Lead Counsel before and during the mediation session, as well as from my
14 numerous discussions with them, that Lead Counsel performed a thorough
15 examination of the merits of the claims in the Action. It is also my opinion that
16 Lead Counsel performed substantial work and efforts in preparing their case for
17 mediation and in presenting their claims in such a way as to produce a valuable
18 settlement for the Settlement Class. Based upon my experience as a former federal
19 judge and as a mediator, it is my opinion that a request by, and award to, Lead
20 Counsel for attorneys' fees in the amount of 30% of the settlement cash, and 30%
21 of the settlement shares, plus reimbursement of actual litigation expenses, would be
22 reasonable and appropriate given the complexity of this matter and the significant
23 relief obtained by Lead Counsel. It is also my opinion that a fee award in that range
24 is in line with amounts approved by other courts as being fair and reasonable in
25 contingent fee class action litigation such as this. Therefore, I respectfully endorse
26 Lead Counsel's fee request.

27 ¹ Arena has the option to pay all or part of the Settlement Shares in cash at the time
28 Arena is to issue the Settlement Shares.

1 I state under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3 Executed this 23rd day of February, 2018, at Newport Beach, California.

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5 /s/ 
6 LAYN R. PHILLIPS
7 Former United States District Court Judge
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